IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 11007 of 2001(I)

PETITIONER:

SHEEN ILDEPHONSE,
JUNIOR ACCOUNTANT, SUB TEASURY,
UZHAVOOR, KOTTAYAM DISTRICT.

BY ADV. SRI.S.GOPAKUMARAN NAIR

RESPONDENTS:
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1. STATE OF KERALA, REP. BY CHIEF SECRETARY,
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE PRINCIPAL SECRETARY, FINANCE DEPARTMENT(ESTT.C)
   GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

3. THE DIRECTOR, DEPARTMENT OF TREASURIES,
   THIRUVANANTHAPURAM.

(* ADDL. R4 IMPLEADED)

4. ABRAHAM C. CHACKO,
   SENIOR ACCOUNTANT, SUB TREASURY,
   KADUTHURUTHY, KOTTAYAM DISTRICT

(* ADDL.R4 IS IMPLEADED AS PER THE ORDER DTD.27/11/2001 IN C.M.P.NO.20919 OF 2001)

BY GOVERNMENT PLEADER SRI.K.V.MANOJ
ADV. SRI.K.BABU THOMAS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONERS EXHIBITS:

EXT.P1: COPY OF THE REPRESENTATION DATED 18.1.1999 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, INFORMATION TECHNOLOGY DEPARTMENT,GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

EXT.P2: COPY OF THE GOVERNMENT ORDER G.O.(MS) NO.43/99/IT DATED 23RD MARCH, 1999 ISSUED BY THE 1ST RESPONDENT.

EXT.P3: COPY OF THE REPRESENTATION DATED 20.4.99 SUBMITTED BY THE PETITIONER BEFORE THE SECRETARY, INFORMATION TECHNOLOGY DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

EXT.P4: COPY OF THE LETTER NO.45296/ESTT CI/99/FIN DATED 28/5/99 ISSUED BY THE 2ND RESPONDENT.

EXT.P5: COPY OF THE REPRESENTATION DATED 20/10/1999 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P6: COPY OF THE ORDER NO. 100037/ESTT.CI/FIN DATED 30.11.1999 SENT BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P7: COPY OF THE GOVERNMENT ORDER G.O.(RT) No.2002/2000/FIN DATED 31/3/2000.

EXT.P8: COPY OF THE REPRESENTATION DATED 27/10/2000 SUBMITTED BY THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P9: COPY OF THE REPRESENTATION DATED 30.10.2000 SUBMITTED BY THE PETITIONER BEFORE THE HON'BLE FINANCE MINISTER.

EXT.P10: COPY OF THE CERTIFICATE No. DATED 29.6.2000 ISSUED BY THE HEAD OF INFORMATION TECHNOLOGY TO THE PETITIONER.

EXT.P11: PHOTOSTAT REPORT APPEARED IN THE DAILY NEWSPAPER MATHRUBHUMI DATED 12.3.2001.

EXT.P12: COPY OF THE ACKNOWLEDGMENT LETTER NO.2669/M(FIN) 51 27/2000 (FIN) DATED 24.11.2000 RECEIVED FROM THE FINANCE MINISTRY TO THE PETITIONER.

EXT.P13: COPY OF LETTER NO.A-3/11056/2000 DATED 16.7.2002 ISSUED BY THE 3RD RESPONDENT.

EXT.P14: COPY OF LETTER NO.A3/11056/2000 DATED 31-7-2002 ISSUED BY THE 3RD RESPONDENT.

RESPONDENT'S EXHIBITS:

EXT.R4(a): COPY OF FINAL SENIORITY LIST OF JUNIOR ACCOUNTANTS ASSIGNING SERIAL NO.3685 TO THE PETITIONER.

EXT.R4(b): DO OF RELEVANT PORTION OF THE ORDER OF THE JOINT DIRECTOR OF TREASURIES PROMOTING THE ADDITIONAL 4TH RESPONDENT.

TRUE COPY

P.A.TO JUDGE

T.R.RAMACHANDRAN NAIR, JJ.

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O.P.No. 11007 of 2000-I.

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Dated this the 13th day of June, 2007.

J U D G M E N T

This original petition is filed by the petitioner who was working as Junior Accountant at the time of filing of this original petition in the Treasury Department. The petitioner claimed appointment as Assistant Mission Co-ordinator by deputation to the newly started Information Technology Department from the Treasury Department based on the various qualifications he was possessing. The complaint in the original petition is mainly relating to denial of the request of the petitioner for appointment by deputation to the post of Assistant Mission Co-ordinator as well as Joint Director or Assistant Director in the Treasury Department, in the newly sanctioned posts. This post was apparently commissioned by the Information Technology Department. In Ext.P4 the reason for rejection stated was that since the Treasury Department is in the process of computerisation, the services of the petitioner is required in that Department and accordingly his application for deputation was rejected. The petitioner again submitted representations on 17-6-1999 and 20-10-1999 for the same relief. The latter representation is produced in the original petition as Ext.P5. A reply was

given to Ext.P5 wherein he has informed that his services are required in the parent department (Ext.P6). The petitioner had been submitting representations thereafter also and ultimately filed this original petition seeking various reliefs. In the meanwhile, by Ext.P7 order various additional posts were created in the Treasury Department in connection with computarisation of treasuries. The petitioner thereafter submitted Ext.P8 representation to the second respondent requesting to consider him for the post of Joint Director/Assistant Director/Assistant Treasury Officer. This was followed by Ext.P9 representation also. Thereafter he filed the above Original Petition seeking various reliefs.

2. A detailed counter-affidavit has been filed by respondents 1 and 2 and the additional 4th respondent has also filed a counter-affidavit. In the counter-affidavit filed by respondents 1 and 2, stand taken is that as far as recommending him for deputation is concerned the controlling officer has got discretionary power and that as the Treasury Department was in the process of computerisation it was decided not to lend the service of the petitioner to the Information Technology Department. It is also stated that even though the Government in their Order No. (Rt.) 2002/2000/Fin. dated 31-3-2000 sanctioned various technical posts in the Treasury Department, the mode of appointment, qualification required for appointment were not fully specified

in the above Government Order. Only after fixing the specific qualifications for appointment to each Technical post these newly created technical posts can be filled up. Hence the request of the petitioner who was then working in the lower clerical posts in the Treasury Department for appointment to the top level technical post sanctioned in the Treasury Department cannot be considered.

3. Going by the averments of the counter-affidavit it is evident that the reasons stated for the rejection of the representation of the petitioner seeking deputation are sound and legal. The authorities have got ample power and discretion in dealing with any request for deputation of an employee. The employee cannot have any legal right to seek deputation to a particular post at his own will. Apart from the said fact his services were required in the parent department. As far as his request for appointment as Joint Director/Assistant Director Technical is concerned, it was entirely for the Government to fix up the qualifications for the post s and make appointment in accordance with the prescribed qualifications and mode of selection. Therefore, the petitioner at that point of time had no legal right to claim said appointment. In the absence of any legal right, merely because of the qualification claimed by him, he could not have been appointed. As pointed out by the respondents in their counter-affidavit only after fixing the

norms for filling up the posts sanctioned in the Government Order dated 31.3.2000, the request of the petitioner and similar others for posting against the technical posts could have been considered. Hence the reliefs sought for in the Original Petition are not sustainable. The Original Petition fails and the same is dismissed without costs.

T.R.RAMACHANDRAN NAIR, JUDGE.

Kvs/-